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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,694	03/08/2001	Jurgen Pandel	P01 0063	5077

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EXAMINER
PARSONS, CHARLES E

ART UNIT	PAPER NUMBER
2613	11

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-30* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☒ All   b)☐ Some * c)☐ None of:

         1.☒ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 4/22/2004 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, from the fact that it was well known at the time the invention was made that in order to separate objects, the edges must be found. While Haskell does not implicitly teach this, he does not have to, it is inherent, as noted in the first office action, Bannon was used to prove that many of the features claimed were indeed part of object based video coding. Furthermore, Bannon and Haskell are analogous art and therefore combinable.

2.   In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

3.   In response to the applicants argument that Haskell does not teach coding objects with different quality, the Examiner disagrees. The mere mention of enhancement layers and coding the objects implies the use of quality layers. See column 3 lines 32-56, wherein he teaches that objects can be associated with either one layer or several layers, and not all objects have to appear in every layer. The Enhancement layers are quality layers, the more the picture is enhanced the better the quality. The same holds true for the objects in the picture, the objects can be enhanced with one or multiple layers thus each object has it's own quality associated with it. See also column 4 lines 20-37.

The Examiner stands behind his original rejection included below.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 16-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haskell in view of

Bannon.

16, 26. A method for processing a digitized picture with pixels, comprising the steps of:

grouping the pixels into picture blocks, (See Haskell Column 8 lines 30-31)

assigning information about the picture object to the at least one picture block; (See

Bannon column 8 lines 36-39)

coding the picture objects with different quality; (See Haskell column 3 lines 32-56)

assigning a quality specification indicating the quality with which a picture object is coded

to at least one macroblock contained in the corresponding picture object; and (This is part

of the VOP Data see Haskell column 2 lines 35-48)

determining the quality by a spatial resolution. (See Banon column 2 lines 16-29)

seqmenting the picture into at least a first picture object and a second picture object, at

least one picture block being assigned to at least a part of an edge of the first picture

object; (See Haskell column 4 lines 20-21 and while he is not specific as to the edge

assignment, this is the conventional method of determining the edges of an object, See

Bannon column 8 lines 12-65. At the time the invention was made, it was well known in

the art that if objects were to be segmented out of a picture, the edges must be found and

macroblocks making up those edges must be identified and labeled as contour blocks.

Therefore, it would have been obvious to one of ordinary skill in the art, to include details

of the edge detection provided for in Bannons teachings into Haskells object segmentor,

one would have been motivated by the above mentioned requirement in order to

separate objects from a picture.) The Examiner would also like to point out that this

feature is actually inherent to Haskell's segmentor, Bannon is proof of such inherency.

Claim 17, 27: The method of claim 16 wherein a plurality of picture blocks are in each case

grouped to form a macroblock; and a macroblock is assigned at least to the part of the

edge. (See Bannon column 8 lines 36-38)

Claim 18: The method of claim 17 wherein at least one luminance block of the macroblock is

assigned at least to the part of the edge of the first picture object. See Bannon figure 5a-

5g and column 8 lines 13-65)

Claim 19: The method of claim 16 in which at least one picture block is assigned to an entire

edge of the first picture object. (See figure 5a-5g or Bannon.)

Claim 20: The method of claim 17 in which information about the picture object is in each case

assigned to all the macroblocks in which the edge is contained. (See Haskell column 4

lines 20-37 all of the blocks within an object are coded with reference to the object.)

Claim 21: The method of claim 17 in which the first picture object is addressed using a

macroblock address respectively assigned to a macroblock.

Claim 22. The method of claim 17 in which the second picture object is addressed using a

macroblock address respectively assigned to a macroblock. (As for claims 21 and 22,

Clearly if an object is segmented as shown in figures 5a-5g of Bannon, they will all have

macroblock addresses assigned with respect to one another thus an inherent feature and

not patentable.)

23, 28. The method of claim 16 used for coding a digitized picture.

24, 29. The method of claim 16 used for decoding a digitized picture.

(As for claims 23, 24, 28 and 29 both Haskell and Bannon are used to encode and decode

digitized images.)

Claim 25, 30: The method of claim 16 used in a mobile communications device. (See Bannon

column 1 lines 8-9 clearly teaching that the invention can be used for video

communication. At the time the invention was made, it was well known in the art that

mobile communication devices could be adapted to transmit and receive video data.

Therefore it would have been obvious to one of ordinary skill in the art to incorporate

video encoding and decoding capabilities into a mobile communication device in order to

make the invention as claimed.) (Official Notice served.)

Conclusion

3.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth

in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Charles E Parsons whose telephone number is 703-305-3862. The examiner can normally

be reached on M-TH 7AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CEP

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